

Message

From: Kazempoor, Kelly [kazempoor.kelly@epa.gov]
Sent: 7/19/2019 7:22:03 PM
To: OCSPP Daily Clips [OCSPP-Daily-Clips@epa.gov]
Subject: Daily OCSPP News Clips 7/19/19

Chlorpyrifos

Vanity Fair: TRUMP'S EPA WON'T BAN PESTICIDE LINKED TO BRAIN DAMAGE IN KIDS

The Hill: EPA allows continued use of pesticide linked with brain damage

Washington Post: EPA will not ban use of controversial pesticide linked to children's health problems

CNN: EPA refuses to ban pesticide tied to children's health problems

Newsweek: WHAT IS CHLORPYRIFOS? DONALD TRUMP'S EPA SAYS IT WON'T BAN CONTROVERSIAL PESTICIDE LINKED TO BRAIN DEVELOPMENT PROBLEMS IN CHILDREN

USA Today: EPA green lights use of pesticide linked to brain damage in children

New York Times: E.P.A. Won't Ban Chlorpyrifos, Pesticide Tied to Children's Health Problems

E&E Daily: EPA won't ban chlorpyrifos

Bloomberg Environment: EPA Says It Won't Ban Pesticide Chlorpyrifos (2)

Politico: EPA keeps chlorpyrifos on fields, for now

PFAS

Bloomberg Environment: New Hampshire Slashes Amount of 'Forever' Chemicals Allowed

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Bloomberg Environment: States Want Pot to Grow Greener as Legal Cannabis Expands

Chlorpyrifos

Vanity Fair

TRUMP'S EPA WON'T BAN PESTICIDE LINKED TO BRAIN DAMAGE IN KIDS

<https://www.vanityfair.com/news/2019/07/donald-trump-epa-chlorpyrifos>

BY BESS LEVIN

In a normal universe, like the one we inhabited until January 20, 2017, it would be considered a no-brainer to outlaw the use of a pesticide linked to neurological damage in children. That's why, in 2015, the Obama administration proposed to revoke all uses of chlorpyrifos, exposure to which studies had shown led to lower birth weight and reduced IQ, among a host of harmful effects. Then Trump became president and, well you can probably guess where this is going:

...before the ban was finalized, President Trump took office and reversed course.... In a notice to the Federal Register on Thursday, the Environmental Protection Agency wrote that "critical questions remained regarding the significance of the data" that suggests that chlorpyrifos causes neurological damage in young children. The agency said that the Obama administration's decision to ban the product—used on more than 50 crops, including grapes, broccoli, and strawberries—was based on epidemiological studies rather than direct tests on animals, which have historically been used by the EPA to determine a pesticide's safety. The EPA's decision, which represented a win for industry, drew swift condemnation from groups that have pushed for years to remove the pesticide from the market.

Presumably, one of the groups extremely happy with the decision was Dow Chemical, which sells approximately 5 million pounds of chlorpyrifos in the U.S. each year, according to the Associated Press, and wasn't about to let one of its biggest moneymakers get banned; in 2017, per the AP, Dow and two other companies that manufacture chlorpyrifos sent letters to the EPA, the Department of Commerce, and the Fish and Wildlife Service, asking them to "set aside" the

results of studies indicating harmful effects, claiming that they were “fundamentally flawed.” They even hired scientists to “produce a lengthy rebuttal to the government studies.” Oh, and don’t forget that Dow donated \$1 million to underwrite Trump’s inaugural festivities, though anyone even entertaining the idea that the seven-figure check was intended to grease the administration’s wheels should put a sock in it. Rachele Schikorra, Dow’s director of public affairs, told the AP at the time that any such suggestion was “completely off the mark.”

The administration’s move to keep chlorpyrifos on the market comes as states like California and New York have taken steps to ban the pesticide outright. In May, California health officials said they did so in light of strong evidence that it “causes serious health effects in children and other sensitive populations at lower levels of exposure than previously understood.”

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“Today’s decision is shameful,” Kristin Schafer, executive director of the Pesticide Action Network, told the Washington Post. “It flies in the face of decades of strong scientific evidence, and the recommendations of the agency’s own scientists. This administration is putting children, workers and rural families across the country at continued risk for no good reason, and we will continue to press for a full federal ban of this dangerous chemical. This administration has made perfectly clear who they are working for.”

The Hill

EPA allows continued use of pesticide linked with brain damage

<https://thehill.com/policy/energy-environment/453777-epa-allows-continued-use-of-pesticide-linked-with-brain-damage>

BY REBECCA BEITSCH AND MIRANDA GREEN

The Environmental Protection Agency (EPA) will not halt a pesticide linked with brain damage from being sprayed on crops, the agency said Thursday in response to a lawsuit.

Chlorpyrifos, known on the market as Lorsban, is used on a wide variety of crops, including corn and cranberries, and farmers often call it a last line of defense against certain insects.

A federal appeals court in April gave the EPA 90 days to decide how to deal with the pesticide.

Environmental groups have long contended it’s dangerous and have spent years suing the EPA to end its agricultural use. Studies have linked chlorpyrifos to learning and memory issues and prolonged nerve and muscle stimulation.

In a statement to The Hill, the EPA said the groups challenging chlorpyrifos’s use did not have enough data to demonstrate the product is not safe. The EPA said it would continue to review the safety of chlorpyrifos through 2022.

Chlorpyrifos has already been banned for household use and seemed on track to be phased out more broadly, but that shifted under the Trump administration.

A month after former EPA Administrator Scott Pruitt began leading the department, the agency rejected an Obama-era recommendation from agency scientists to ban the widely used pesticide.

In the absence of EPA action, some states have moved to regulate chlorpyrifos on their own. Hawaii in 2018 banned the use of the pesticide across the state. California and New York are considering a similar move.

California, the nation’s top agricultural state, said it was obligated to take action due to research showing chlorpyrifos hinders brain development in children.

Farmers and other groups have urged the EPA to keep chlorpyrifos available.

“Without the ability to use chlorpyrifos, entire production fields could be lost,” the American Seed Trade Association wrote in a letter to the agency in 2017.

In April, Sen. Kirsten Gillibrand (N.Y.), one of the Democrats vying for the 2020 presidential nomination, introduced a bill to restrict schools from serving meals that include fruits and vegetables sprayed with chlorpyrifos.

“As a mother of two young sons, it’s alarming that the food in school meals could contain even a trace of a chemical that could harm students’ development and ability to learn,” Gillibrand, who sits on the Senate Agriculture Committee, said in a statement at the time.

Environmental groups knocked the agency’s decision Thursday.

“By allowing chlorpyrifos to stay in our fruits and vegetables, Trump’s EPA is breaking the law and neglecting the overwhelming scientific evidence that this pesticide harms children’s brains,” said Patti Goldman, an attorney for Earthjustice. “It is a tragedy that this administration sides with corporations instead of children’s health.”

The organizations that originally brought the challenge to EPA on the rule said they will continue to fight the decision.

“Every day we go without a ban, children and farm workers are eating, drinking and breathing a pesticide linked to intellectual and learning disabilities and poisonings,” said the 12 plaintiff organizations that challenged the 2017 decision.

“We will continue to fight until chlorpyrifos is banned and children and farm workers are safe from this dangerous chemical.”

Washington Post

EPA will not ban use of controversial pesticide linked to children’s health problems

https://www.washingtonpost.com/climate-environment/2019/07/18/epa-will-not-ban-use-controversial-pesticide-linked-childrens-health-problems/?utm_term=.c12ce6533aa2

By Brady Dennis

The Environmental Protection Agency rejected a petition by environmental and public health groups Thursday to ban a widely used pesticide that has been linked to neurological damage in children, even though a federal court said last year there was “no justification” for such a decision.

In a notice to the Federal Register on Thursday, the agency wrote that “critical questions remained regarding the significance of the data” that suggests that chlorpyrifos causes neurological damage in young children. The agency said that the Obama administration’s decision to ban the product — used on more than 50 crops, including grapes, broccoli and strawberries — was based on epidemiological studies rather than direct tests on animals, which have historically been used by the EPA to determine a pesticide’s safety.

The EPA’s decision, which represented a win for industry, drew swift condemnation from groups that have pushed for years to remove the pesticide from the market.

“By allowing chlorpyrifos to stay in our fruits and vegetables, Trump’s EPA is breaking the law and neglecting the overwhelming scientific evidence that this pesticide harms children’s brains,” Patti Goldman, an attorney for the environmental law organization Earthjustice, said in a statement. “It is a tragedy that this administration sides with corporations instead of children’s health.”

Still, the decision to deny the petition could bring the country closer to final resolution of a decades-long battle over a pesticide used on fruits, vegetables and cereals that Americans eat every day. Kevin Minoli, a partner at the Alston &

Bird law firm, said agency critics can now challenge the EPA's conclusion that the pesticide is safe. He noted that judges on the U.S. Court of Appeals for the 9th Circuit have already indicated "they have significant concerns about the safety of chlorpyrifos."

"This is the entry ticket to the actual main event," said Minoli, who served in the EPA's Office of General Counsel under multiple Republican and Democratic administrations. "This is the end of the road."

The Obama administration had proposed in 2015 to revoke all uses of chlorpyrifos after EPA scientists determined that existing evidence did not meet the agency's threshold of a "reasonable certainty of no harm," given exposure levels in Americans' food supply and drinking water. EPA staffers cited studies of families exposed to it in apartment buildings and agricultural communities that found lower birth weight and reduced IQ, among other effects.

But before the ban was finalized, President Trump took office and reversed course.

In March 2017, then-EPA Administrator Scott Pruitt rejected the agency's own analysis, saying the agency would reassess the science underpinning that decision and make a final determination in 2022. That action, welcomed by the pesticide industry and Agriculture Department officials who had questioned the EPA's findings, led to the latest court fight.

Farmers have pressed to keep chlorpyrifos, which has long been banned from indoor use, available for use on crops.

John Chandler, a fourth-generation farmer in Selma, Calif., grows peaches, plums, almonds, citrus and grapes for raisins and wine on his property. He said his operation uses chlorpyrifos on rare occasions, such as during an outbreak of the vine mealybug on grape crops.

"It's kind of the last resort," Chandler said, adding that his family works to minimize their employees' exposure to the pesticide. "We train our workers very diligently on proper procedures."

The industry welcomed the EPA's decision Thursday, even as manufacturers of the pesticide acknowledged that its approved uses could change over time as researchers gather more data. Gregg Schmidt, a spokesman for Corteva Agriscience, the pesticide's main manufacturer, said the company supports "critical uses of chlorpyrifos" while the EPA continues to review the pesticide and the scientific data around it.

"We are committed to working with the agency as it seeks to make an accurate assessment and, if necessary, reduce potential exposures, while also ensuring that growers for whom chlorpyrifos is a critical tool can continue to use the product safely," Schmidt said in a statement.

Chris Novak, chief executive of the industry group CropLife America, said farmers and public health officials still rely on chlorpyrifos to control a number of "deadly and debilitating" pests, including mosquitoes. He added that the group supports funding to ensure that the EPA has adequate resources to test and regulate chlorpyrifos and other pesticides.

The EPA said in a statement Thursday that it plans to expedite a review of chlorpyrifos, "which should be completed well before the 2022 statutory deadline." The agency also acknowledged it was in discussions with makers of the pesticide that "could result in further use limitations."

The Trump administration's decision to keep the pesticide on the market comes as some major states — including California and New York — have taken steps to ban chlorpyrifos outright.

California health officials said in May that their decision came amid growing evidence that the pesticide “causes serious health effects in children and other sensitive populations at lower levels of exposure than previously understood.” California Gov. Gavin Newsom (D) proposed \$5.7 million to support the transition to “safer, more sustainable alternatives,” according to the California Environmental Protection Agency.

California’s proposed ban is expected to take six months to two years to take full effect and comes as other states have started taking similar action. Last year, Hawaii became the first state to ban pesticides containing chlorpyrifos, though that ban will not take effect until 2022. New York state lawmakers recently approved legislation to ban the pesticide by Dec. 1, 2021. Oregon, Connecticut and New Jersey also are considering measures to take chlorpyrifos off the market.

Chlorpyrifos has been used for a half-century on a wide array of crops and in virtually every corner of the country. But as evidence has grown over time about its potential health risks, the government has scaled back its use.

Beginning in 2000, companies making chlorpyrifos entered into an agreement with the EPA to phase out residential use of the chemical, aside from a handful of exceptions, such as in ant and roach baits sold in child-resistant packaging. Two years later, the EPA put in place additional label changes aimed at protecting agricultural workers, as well as fish, other wildlife and water sources near where it is sprayed.

But all that stopped short of banning chlorpyrifos in agriculture altogether — an outcome that advocates argue is long overdue.

“Today’s decision is shameful,” Kristin Schafer, executive director of the Pesticide Action Network, said in an email. “It flies in the face of decades of strong scientific evidence, and the recommendations of the agency’s own scientists. This administration is putting children, workers and rural families across the country at continued risk for no good reason, and we will continue to press for a full federal ban of this dangerous chemical. This administration has made perfectly clear who they are working for.”

CNN

EPA refuses to ban pesticide tied to children's health problems

<https://www.cnn.com/2019/07/18/politics/epa-chlorpyrifos/index.html>

By Gregory Wallace and Ellie Kaufman, CNN

Washington (CNN)The Environmental Protection Agency has decided against a ban of the widely-used pesticide chlorpyrifos, which critics say is associated with neurological problems in children.

The agency concluded there is not sufficient evidence of the chemical's dangers to justify the ban requested by environmental groups and a group of states. Those groups cast the decision as another example of the Trump administration siding with industry.

"EPA has determined that their objections must be denied because the data available are not sufficiently valid, complete or reliable to meet petitioners' burden to present evidence demonstrating that the tolerances are not safe," the agency said in a statement Thursday.

Critics say science shows chlorpyrifos is associated with neurological conditions in farm workers and their children. The agency banned chlorpyrifos for household uses in 2000, but allowed agricultural producers to continue using it. That decision has been challenged through petitions and in the courts since 2007. Last summer, a federal court ordered the EPA to review the petition, and after a review of that decision, the agency was given 90 days in April to make a determination, culminating in Thursday's decision.

"By allowing chlorpyrifos to stay in our fruits and vegetables, Trump's EPA is breaking the law and neglecting the overwhelming scientific evidence that this pesticide harms children's brains," said attorney Patti Goldman of Earthjustice, who represents the groups that took the issue to court.

The chemical's producer, Corteva Agriscience -- previously Dow AgroSciences -- did not immediately respond to a request for comment.

The EPA said it will continue an ongoing review of chlorpyrifos and make its next determination about the pesticide by 2022. That review "could result in further use limitations affecting the outcome of EPA's assessment," its statement said. The agency is required by law to periodically review chemicals.

Newsweek

WHAT IS CHLORPYRIFOS? DONALD TRUMP'S EPA SAYS IT WON'T BAN CONTROVERSIAL PESTICIDE LINKED TO BRAIN DEVELOPMENT PROBLEMS IN CHILDREN

<https://www.newsweek.com/chlorpyrifos-donald-trump-epa-controversial-pesticide-brain-problems-children-1450154>

BY ARISTOS GEORGIU

The Environmental Protection Agency (EPA) has announced it will not ban a controversial but commonly used pesticide, dismissing previous proposals from its own scientists who highlighted research linking the chemical to health problems in children.

The chemical, known as chlorpyrifos, belongs to a class of pesticides known as organophosphates, which are used on more than 50 different crops, including corn, various fruit trees and soybeans, Mother Jones reported.

According to some recent studies, there is evidence to suggest that being exposed to low doses of the chemical in the womb can lead to developmental problems in the brain, potentially resulting in lower IQs or disorders such as ADD and autism (although it should not be noted that such research is not without its limitations, in part, because it does not prove causal links.)

People can be exposed to the chemical through ingestion of food containing the insecticide, or less commonly, through inhalation of contaminated air or absorption through the skin, Fact Check reported. In 2000, the EPA banned the substance in the home due to the potential links to developmental problems in children.

And in 2015, the agency proposed to ban the chemical outright under the Obama administration because it was "unable to conclude that the risk from aggregate exposure from the use of chlorpyrifos meets the safety standard."

But in 2017, the EPA administrator at the time, Scott Pruitt, reversed the decision saying: "We need to provide regulatory certainty to the thousands of American farms that rely on chlorpyrifos, while still protecting human health and the environment. By reversing the previous Administration's steps to ban one of the most widely used pesticides in the world, we are returning to using sound science in decision-making—rather than predetermined results."

This reversal initiated a number of legal challenges with a federal appeals court ruling in April that the EPA had to decide by July this year whether or not to ban the substance, The New York Times reported.

Now, current EPA administrator Andrew Wheeler has announced that the ban will not come into effect, according to a statement.

"After reviewing the objections, EPA has determined that the objections related to Petition claims regarding neurodevelopmental toxicity must be denied because the objections and the underlying Petition are not supported by valid, complete, and reliable evidence sufficient to meet the Petitioners' burden under the The United States Federal Food, Drug, and Cosmetic Act, as set forth in EPA's implementing regulations," the statement read.

The latest decision has been criticized by Patti Goldman, a lawyer for the environmental group Earthjustice which initiated a legal challenge against the EPA in 2017 over Pruitt's decision to reverse the Obama era proposals.

"By allowing chlorpyrifos to stay in our fruits and vegetables, Trump's EPA is breaking the law and neglecting the overwhelming scientific evidence that this pesticide harms children's brains," Goldman said in a statement.

USA Today

EPA green lights use of pesticide linked to brain damage in children

<https://www.usatoday.com/story/news/health/2019/07/18/epa-chlorpyrifos-pesticide-brain-damage/1773300001/>

Ellen Knickmeyer, Associated Press

WASHINGTON – The Environmental Protection Agency rejected a key legal challenge Thursday to a pesticide linked to brain damage in children, saying environmental groups had failed to prove that a ban was warranted.

The agency's defense of continued use of the widely used bug-killer chlorpyrifos could set the stage for a pivotal federal court decision on whether to overrule the EPA and force the agency to ban it.

"To me, this starts the clock on the use of chlorpyrifos on food crops in the US," said former senior EPA attorney Kevin Minoli.

Scientists say studies have shown that chlorpyrifos damages the brains of fetuses and children. The pesticide has been used nationally on dozens of food crops, but California – the nation's largest agricultural state – and a handful of other states have recently moved to ban it.

Family pushed for death penalty: Illinois man gets life in prison for brutal rape and killing of Chinese scholar

The agency said the environmental groups had failed to prove that the pesticide wasn't safe.

Last summer, a three-judge panel of the 9th Circuit Court of Appeals ordered the EPA to ban all sales of the pesticide. The court decided to reconsider that ruling with a slate of 11 judges, who gave the EPA until this month to respond to the environmental groups' arguments for banning chlorpyrifos.

The EPA under the Obama administration had initiated a ban, but the agency reversed that decision shortly after President Donald Trump took office.

The EPA defense Thursday showed that "as long as the Trump administration is in charge, this EPA will favor the interests of the chemical lobby over children's safety," said Ken Cook, head of the Environmental Working Group environmental advocacy organization.

In a statement, the EPA said it was separately speeding up a regular agency review of the pesticide's continued use, and expected a decision on that well ahead of a 2022 deadline.

The EPA said it also was talking with chlorpyrifos makers about further restrictions on how farmers use the pesticide.

New York Times

E.P.A. Won't Ban Chlorpyrifos, Pesticide Tied to Children's Health Problems

<https://www.nytimes.com/2019/07/18/climate/epa-chlorpyrifos-pesticide-ban.html>

By Lisa Friedman

WASHINGTON — The Trump administration took a major step to weaken the regulation of toxic chemicals on Thursday when the Environmental Protection Agency announced that it would not ban a widely used pesticide that its own experts have linked to serious health problems in children.

The decision by Andrew R. Wheeler, the E.P.A. administrator, represents a victory for the chemical industry and for farmers who have lobbied to continue using the substance, chlorpyrifos, arguing it is necessary to protect crops.

It was the administration's second major move this year to roll back or eliminate chemical safety rules. In April, the agency disregarded the advice of its own experts when officials issued a rule that restricted but did not ban asbestos, a known carcinogen. Agency scientists and lawyers had urged the E.P.A. to ban asbestos outright, as do most other industrialized nations.

In making the chlorpyrifos ruling, the E.P.A. said in a statement that the data supporting objections to the use of the pesticide was "not sufficiently valid, complete or reliable." The agency added that it would continue to monitor the safety of chlorpyrifos through 2022.

What on Earth Is Going On?

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The substance, sold under the commercial name Lorsban, has already been banned for household use but remains in widespread use by farmers for more than 50 fruit, nut, cereal and vegetable crops. In 2016, more than 640,000 acres were treated with chlorpyrifos in California alone.

Representatives of Corteva Agriscience, the maker of chlorpyrifos, did not immediately respond to a request for comment on the decision.

The Obama administration announced in 2015 that it would ban chlorpyrifos after scientific studies produced by the E.P.A. showed the pesticide had the potential to damage brain development in children. That ban had not yet come into force when, in 2017, Scott Pruitt, then the administrator of the E.P.A., reversed that decision, setting off a wave of legal challenges.

Those lawsuits culminated in April when a federal appeals court ordered the E.P.A. to issue a final ruling on whether to ban chlorpyrifos by this month.

Patti Goldman, a lawyer for Earthjustice, an environmental group that brought a legal challenge against the E.P.A.'s 2017 decision on behalf of farmworker organizations and others, criticized the decision. She said groups would sue again and ask the United States Court of Appeals for the Ninth Circuit to expedite the case.

"By allowing chlorpyrifos to stay in our fruits and vegetables, Trump's E.P.A. is breaking the law and neglecting the overwhelming scientific evidence that this pesticide harms children's brains," Ms. Goldman said in a statement.

Representatives of the chemical industry expressed satisfaction with the decision. "The availability of pesticides, like chlorpyrifos, is relied upon by farmers to control a variety of insect pests and by public health officials who work to control deadly and debilitating pests like mosquitoes," Chris Novak, chief executive of CropLife America, said in a statement.

Hawaii banned chlorpyrifos in 2018. California and New York are considering similar actions. The European Commission is under pressure from consumers and environmental groups to ban the pesticide.

The Trump administration has issued several other decisions in recent months relaxing environmental regulations. This week, the E.P.A. acknowledged a new policy doing away with surprise inspections of chemical and power plants. The "no surprises" policy is aimed at fostering better working relationship between the agency and states, E.P.A. officials wrote.

Last week, the E.P.A. approved broad use of the pesticide sulfoxaflo, which is known to harm bees. And this year the agency announced curbs on a lethal chemical found in paint-stripping products that represented a weakening of a ban that the Obama administration proposed.

Editors' Picks

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President Trump's Retreat on the Environment Is Affecting Communities Across AmericaDec. 26, 2018

83 Environmental Rules Being Rolled Back Under TrumpJune 2, 2019

Senator Tom Udall, Democrat of New Mexico, who introduced legislation to ban chlorpyrifos nationwide, said there was "no excuse" for keeping chlorpyrifos in use.

"The science on chlorpyrifos is clear and unambiguous," he said. "It damages the developing brains of children and causes serious health problems in those who have been exposed to it."

The E.P.A. decision is also one of the first concrete results of a separate Trump administration effort to restrict the use of scientific studies involving human subjects.

Under Mr. Pruitt, the agency proposed a rule saying it could not consider scientific research unless the raw data behind it was made public, saying the issue was a matter of transparency. Scientists argued that studies measuring human exposure to pesticides and other chemicals often rely on confidential health information and argued the E.P.A.'s real motivation was to restrict the ability to develop regulations.

In opting not to ban chlorpyrifos, the E.P.A. rejected a major study conducted by Columbia University on its effects on children in New York City. The E.P.A. said because it was unable to obtain the raw data and replicate that study, which linked the insecticide to developmental delays, it could not independently verify the conclusions.

Angela Logomasini, a senior fellow at the Competitive Enterprise Institute, a free-market think tank that rejects the established science of climate change, expressed strong support for the decision. She called the E.P.A.'s Science Advisory Panel decision on which the original ban was based "junk science."

Kevin Minoli, a former senior E.P.A. lawyer who is now a partner at the Washington law firm Alston & Bird, predicted the courts would ultimately ban chlorpyrifos. He called Thursday "the beginning of the end" for the chemical.

The E.P.A. may argue that the science showing chlorpyrifos is unsafe is unclear. But Mr. Minoli said under the Food Quality Protection Act, the E.P.A. must prove that there was a reasonable certainty that the pesticide would not cause harm.

"Whatever you think about the science, there's at least a question about that," Mr. Minoli said.

E&E Daily

EPA won't ban chlorpyrifos

<https://www.eenews.net/eenewspm/stories/1060757401/search?keyword=EPA>

Ariana Figueroa, E&E News reporter

EPA today said it will not ban use of the pesticide chlorpyrifos on crops, a move that likely will spark more legal challenges from health and farmworker advocates.

Alexandra Dunn, who leads the agency's chemicals office, published a pre-notice saying EPA will send to the Federal Register an official order denying a petition to ban the chemical.

Last year, the 9th U.S. Circuit Court of Appeals ordered EPA to reverse a Trump administration decision to halt an Obama-era plan to ban the pesticide nationwide. The Trump administration appealed that ruling, and in April, the court gave EPA 90 days to review and respond to comments filed by environmentalists, farmworker groups and other activists (Greenwire, March 26).

That 90-day period ended today.

In a statement to E&E News, EPA said the challenge to its reversal "must be denied because the data available are not sufficiently valid, complete or reliable to meet petitioners' burden to present evidence demonstrating that the tolerances are not safe."

The agency said it will continue reviewing the safety of the pesticide through 2022.

Chlorpyrifos is used on produce such as strawberries, apples, corn and citrus. EPA's own science has linked the pesticide to neurological problems in children, and the agency banned the use of chlorpyrifos in residential use about 20 years ago.

"By allowing chlorpyrifos to stay in our fruits and vegetables, Trump's EPA is breaking the law and neglecting the overwhelming scientific evidence that this pesticide harms children's brains," Patti Goldman, an Earthjustice attorney representing farm, labor and environmental groups opposed to EPA's decision, said in a statement today. "It is a tragedy that this administration sides with corporations instead of children's health."

Iris Figueroa, an attorney at Farmworker Justice, said EPA's decision will continue to harm farmworkers who are either exposed to the chemicals when picking produce or mixing the pesticides for use.

"Agriculture communities are continuing to be exposed to that pesticide the agency two decades ago found dangerous for residents to use," she said.

States, meanwhile, have moved ahead of EPA to ban the pesticide. Hawaii Gov. David Ige (D) signed a bill banning a complete use of chlorpyrifos by 2023.

New York's Legislature passed a bill to ban the use of all chlorpyrifos, but Gov. Andrew Cuomo (D) has not yet signed it into law.

California is moving forward with a plan to ban the pesticide by canceling its registration and funding research to develop "safer, more sustainable alternatives" (Greenwire, May 9).

Bloomberg Environment

EPA Says It Won't Ban Pesticide Chlorpyrifos (2)

<https://news.bloombergenvironment.com/environment-and-energy/epa-says-it-wont-ban-pesticide-chlorpyrifos>

Adam Allington

The Environmental Protection Agency has decided not to ban the pesticide chlorpyrifos.

The agency's July 18 decision came the same day as a court-imposed deadline to respond to the merits of a lawsuit from a coalition of environmental and farmworker groups.

“EPA has determined that their objections must be denied because the data available are not sufficiently valid, complete or reliable to meet petitioners’ burden to present evidence demonstrating that the tolerances are not safe,” the agency said in a statement.

Introduced by Dow Chemical (now Corteva Agriscience) in 1965, chlorpyrifos is among the most widely used insecticides for a number of crops including corn, soybeans, broccoli, fruits, and nuts. It is also used at golf courses and other non-agricultural places. Dow voluntarily withdrew the insecticide for household use in 2000.

Lightning Rod

The EPA’s decision to permit continued use of chlorpyrifos will likely land the agency back in court soon.

Chlorpyrifos has become a lightning rod for criticism from public health organizations that point to a number of studies linking early childhood exposure to organophosphates like chlorpyrifos to cognitive delays and alterations of brain structure.

“By allowing chlorpyrifos to stay in our fruits and vegetables, Trump’s EPA is breaking the law and neglecting the overwhelming scientific evidence that this pesticide harms children’s brains,” said Patti Goldman, an attorney with Earthjustice, who served as co-counsel for the petitioners.

The Obama administration proposed in 2015 to revoke all uses of the pesticide. In March 2017, former EPA Administrator Scott Pruitt called for a reassessment .

That June, the League of United Latin American Citizens (LULAC) and other petitioners sued the EPA. They argued that under the Federal Food, Drug, and Cosmetic Act, the EPA is obliged to remove any pesticide from the market if residues of that chemical pose a risk to human health.

The U.S. Circuit Court of Appeals for the Ninth Circuit agreed with the petitioners in August 2018 and ordered the EPA to revoke all food tolerances and cancel all registrations for chlorpyrifos.

But the court in February granted the EPA’s request for a rehearing of the case before the court’s full panel of 11 judges. After the rehearing, the panel directed the EPA to issue “a full and fair decision” on LULAC’s objections within 90 days.

Causes for Concern

Chlorpyrifos was originally developed as an alternative to the pesticide DDT, which itself was a substitute for lead arsenate.

In recent years, researchers at Columbia University found that children who were exposed to chlorpyrifos in the womb exhibited a number of neurodevelopmental problems years after being exposed, such as poorer reflexes, higher risks of attention deficit hyperactivity disorder, or ADHD, and other developmental disorders.

Another team of researchers from University of California, Berkeley, found that 87% of umbilical cord blood samples tested from newborn babies contained detectable levels of the pesticide.

“Scientists have repeatedly made it clear that chlorpyrifos is linked to long-term harm to kids’ brains. But the Trump administration just keeps thumbing its nose at the science,” said Erik Olson, senior director for health and food at the Natural Resources Defense Council.

“Our leaders have a responsibility to protect our most vulnerable residents—our kids—but this administration chooses instead to protect its deep-pocketed allies in the chemical industry,” he said. “Until EPA gets this stuff out of our fields and off our food, this fight is not over.”

In a statement, Corteva said it supports the EPA’s decision, pointing to “more than 4,000 studies and reports examining the product in terms of health, safety and the environment.”

“Completion of Registration Review will provide needed certainty to growers who rely on chlorpyrifos and needed reassurance for the public that labelled uses will not pose unacceptable risk to public health or the environment,” Corteva said.

State Bans

A number of states, including California, Hawaii, and New York have announced plans to either phase out or ban the chemical entirely in the coming years. Canada is currently considering a near-total ban on agricultural uses of chlorpyrifos.

In addition, Sen. Tom Udall (D-N.M.) has sponsored a bill (S. 921) that would ban the chemical nationally. The bill has drawn cosponsors from 13 Democrats and Sen. Bernie Sanders (I-Vt.).

With previous pesticide bans, such as DDT, Earthjustice’s Goldman says the EPA allowed companies every chance to make their own decision to discontinue a problematic pesticide.

“And given the decisions by big agricultural states like California and New York, the writing is now officially on the wall for chlorpyrifos,” she said.

The case is *League of United Latin Am. Citizens v. Wheeler*, 9th Cir. en banc, 4/19/19.

Politico

EPA keeps chlorpyrifos on fields, for now

<https://subscriber.politicopro.com/newsletters/morning-agriculture/2019/07/epa-keeps-chlorpyrifos-on-fields-for-now-689613>

By LIZ CRAMPTON

— The EPA decided not to ban chlorpyrifos, marking the latest chapter in a decadeslong effort by environmental groups to compel the federal government to prohibit the pesticide that some science shows causes neurological damage to children.

— USDA is not backing down despite intense criticism from Democrats on Capitol Hill, who believe that the administration is weakening and undermining science at the department.

— Russia and China are looking to expand their soybean trade relations in the face of dropping U.S. soybean exports to China.

A message from Farm Credit:

700+ farmers and ranchers will travel to Washington July 23-24. Farm families, including pecan farmers in Texas, cattle ranchers in North Carolina and rice farmers in California, will meet with Congress to share how Farm Credit is fulfilling its mission to support rural communities and agriculture. [Learn more](#)

HAPPY FRIDAY, JULY 19! Welcome to Morning Ag, where your host is distressed by the new “Cats” movie trailer. Send tips to lcrampton@politico.com and [@liz_crampton](https://twitter.com/liz_crampton), and follow us [@Morning_Ag](https://twitter.com/Morning_Ag).

DRIVING THE DAY

EPA KEEPS CHLORPYRIFOS ON FIELDS, FOR NOW: The agency announced Thursday that farmers can continue to use chlorpyrifos, rejecting a request from environmental groups to ban the pesticide that research has linked to causing brain damage to children, your host reports.

After reviewing a petition by the organizations, EPA determined the scientific evidence isn't strong enough to justify removing the pesticide, which is developed by Corteva, from the market.

"For more than 50 crops, chlorpyrifos is the only line of defense and a cost-effective crop protection tool for farmers," Agriculture Secretary Sonny Perdue tweeted Thursday. "We appreciate the @EPA's support of American farmers and producers in its commitment to fact-based regulatory oversight of crop protection tools."

Speeding up review: An EPA spokesperson said the issues environmental groups raised will be addressed through the agency's review of chlorpyrifos' registration, which will be expedited "in response to requests from the public." That review "should be completed well before the 2022 statutory deadline."

The groups behind the court order blasted Thursday's announcement.

"By allowing chlorpyrifos to stay in our fruits and vegetables, [President Donald] Trump's EPA is breaking the law and neglecting the overwhelming scientific evidence that this pesticide harms children's brains," said Patti Goldman, an attorney for Earthjustice.

What's next? If environmentalists continue their push, which is all but certain, the dispute is bound to end up back in court. EPA will likely need to explain again why it doesn't believe the scientific evidence for banning chlorpyrifos is valid.

USDA STICKS TO ITS GUNS ON RESEARCH CONTROVERSIES: Scott Hutchins, USDA's deputy undersecretary for research, education, and economics, defended the Trump administration's approach to agricultural research amid harsh criticism from Democrats on the Senate Agriculture Committee on Thursday.

Several attacked the department for abruptly moving the Economic Research Service and the National Institute of Food and Agriculture — which is expected to result in mass attrition — and for not publicly promoting its own scientific findings and work on climate change.

USDA's secret climate science plan: After POLITICO reported Thursday that USDA officials had suppressed a sweeping plan for studying and responding to climate change, Hutchins told the committee the department never intended to make the report public, but added he had "no problem" with it being released.

Several USDA agencies contributed to the 33-page, multiyear plan, which outlines how the department should help agriculture understand, adapt to and minimize the effects of climate change. It acknowledges climate change is already affecting farmers and ranchers as well as forests.

Wanting it both ways on climate: Hutchins dodged specific questions from Senate Agriculture ranking member Debbie Stabenow about USDA's public communication of its climate work, but insisted the research is ongoing.

"The climate work... is expansive and robust," Hutchins said. He correctly noted that hundreds of climate-related studies have been published by USDA scientists in scientific journals — something that hasn't been in dispute.

However, USDA has largely stopped publicly acknowledging this work in press releases, blog posts, social media and other platforms. Brush up on Helena Bottemiller Evich's deep dive on climate science studies being buried at USDA.

Pros: Read a transcript of the hearing.

ERS UNION NEGOTIATIONS KICK OFF: Agriculture Department officials and labor representatives today will start negotiating with the ERS union. Union leaders, who are opposed to moving the agency to Kansas City, are attempting to win some benefits for employees that either plan to relocate or decline to move.

The talks start off with USDA having already rejected all of the union's requests. The American Federation of Government Employees, which is representing ERS along with NIFA, last month asked for 11 specific demands related to the relocation, such as permitting employees to telework for one year or having USDA pay for certain relocation costs.

JOIN US IN THE NEWSROOM! WE'RE HOSTING AN EVENT ON DIVERSITY IN JOURNALISM & AG: POLITICO and Minorities in Agriculture, Natural Resources and Related Sciences are teaming up for a unique event next week on how the fields of journalism and agriculture are trying to make their workforces more diverse and inclusive.

The details: The event is at 6:30 p.m. on July 25 in our Rosslyn, Va., newsroom. We'll kick off with a panel discussion followed by a reception. Light refreshments will be served.

A conversation with journalists & ag pros: Our speakers include POLITICO reporters and business leaders Eugene Daniels (Video), Sabrina Rodriguez (Pro Trade) and Terrell Mizell (Talent acquisition) as well as Karl Binns, lead development officer for the School of Agricultural and Natural Sciences at the University of Maryland Eastern Shore (MANRRS president), and Alexis Doon, a student studying agriculture with a pre-veterinary medicine concentration at UMES (MANRRS regional undergraduate vice president).

RSVP and get more details.

American energy is being reinvented in many ways. Learn about the benefits, costs, and impacts of mass electrification in America. What are the policy and regulatory concerns that need to be addressed? Join POLITICO on Thursday, July 25th at 8:00 AM to find out. RSVP.

TRADE CORNER

RUSSIA, CHINA LOOK TO EXPAND SOYBEAN TRADE: As U.S. soybean exports to China have plummeted amid the trade war, Beijing has turned to other countries to fill its demand and diversify its supply chain. Now China and Russia are looking to "deepen trade in soybeans and other agricultural products," according to Chinese Commerce Minister Zhong Shan, reports the South China Morning Post, a POLITICO partner.

Presidents Xi Jinping and Vladimir Putin last month agreed to increase their bilateral trade from \$107 billion in 2018 to \$200 billion a year. The closer agricultural ties come as both China and Russia are facing significant tension with the U.S.

But, but, but: It's unlikely Russia will be able to replace U.S. soybeans in the long run, said He Yuxin, a soybean analyst at Sublime China Information in Shandong.

Tele-trade talks: Trump's top negotiators held a phone call with Chinese trade officials for the second time since Trump and Xi agreed to a ceasefire last month. Treasury Secretary Steven Mnuchin has said that he and U.S. Trade Representative Robert Lighthizer could travel to Beijing for in-person talks if their chat this week was productive. Pro Trade's Doug Palmer has more.

PFAS

Bloomberg Environment

New Hampshire Slashes Amount of 'Forever' Chemicals Allowed

<https://news.bloombergenvironment.com/environment-and-energy/new-hampshire-slashes-amount-of-forever-chemicals-allowed>

Adrianne Appel

New Hampshire will impose some of the lowest limits in the nation on fluorinated "forever" chemicals in drinking water starting this fall.

The new limits will allow a fraction of the amount of per- and polyfluoroalkyl substances (PFAS) in drinking water and groundwater than what is considered safe by the U.S. Environmental Protection Agency.

New Hampshire's rules will take effect Oct. 1 and apply to four types of the PFAS chemicals. Lawmakers approved them July 18.

These chemicals have been used for decades in nonstick coatings and firefighting foam. They're often called "forever" chemicals because they persist in the environment and can accumulate in the body. PFAS chemicals have been detected in water systems nationwide and been linked to thyroid issues and cancer.

The EPA has issued a health advisory but hasn't set enforceable limits on the chemicals. States have begun to impose their own rules while calling on the EPA to act.

Tougher Limits

The New Hampshire limits are far stricter than the EPA's and are designed to protect the health of residents, according to the administration of Gov. Chris Sununu (R).

The state's Department of Environmental Services finalized the rules June 28. The new limits are 12 parts per trillion of perfluorooctanoic acid (PFOA); 15 parts per trillion of perfluorooctanesulfonic acid (PFOS); 11 parts per trillion of perfluorononanoic acid (PFNA); and 18 parts per trillion of perfluorohexanesulfonic acid (PFHxS).

In its health advisory, the EPA recommends no more than 70 parts per trillion of PFOA and PFOS, individually or combined.

New York has a limit of 10 parts per trillion of PFOA, and has proposed a ban on PFAS in firefighting foams. Michigan has proposed a limit of 6 parts per trillion of PFOA.

New Hampshire's limits will apply to public drinking water systems serving 25 or more people at least 60 days a year. If a system were found to exceed the PFAS limits, it would have to provide clean water and take remedial action. The rules also apply to treated and untreated wastewater that is discharged into groundwater.

Detected in Wells

High levels of PFAS were detected in private drinking water wells in New Hampshire and Vermont in 2016 and traced to a former manufacturing plant in Bennington, Vt. now owned by Saint-Gobain Performance Plastics.

Both states have embarked on broad statewide testing for the chemicals, and both have filed suits against major manufacturers, including 3M Co. and DuPont, that used PFAS chemicals.

Saint-Gobain is aware of the new PFAS rules, spokeswoman Lia LoBello said. The company has connected 540 properties in New Hampshire to municipal water lines and taken other remedial actions in the state, LoBello said.

Environmental organizations hailed New Hampshire's lower limits. But some companies and business groups have expressed concern the rules would be costly to implement.

"With the federal government dodging its responsibility on this critical issue, real action on the state level is the only way to combat this crisis," said Meredith Hatfield, a senior attorney with the Conservation Law Foundation, an environmental group.

The Business and Industry Association of New Hampshire was disappointed with lawmakers' approval of the rules, which set much much lower limits than originally proposed by the Sununu administration, according to Jim Roche, its president. The industry group wanted more time to review the final rules and an opportunity to understand "the science and assumptions" used to arrive at the new, lower levels, Roche said.

Cannabis

Bloomberg Environment

States Want Pot to Grow Greener as Legal Cannabis Expands

<https://news.bloombergenvironment.com/environment-and-energy/states-want-pot-to-grow-greener-as-legal-cannabis-expands>

Brenna Goth, Tripp Baltz

As more states legalize recreational and medical marijuana, they're confronting the reality that cannabis production involves using huge amounts of pesticides, energy, and water, while generating tons of plant and packaging waste.

The result is a patchwork of air, water, pesticide, and waste regulations for the industry across dozens of states, even as the substance remains illegal at the federal level.

States like Michigan, where the Marijuana Regulatory Agency will begin accepting business licenses in November, have adopted rules on issues like industrial wastewater, water resources, and land management for cannabis growers. Illinois, which legalized recreational marijuana this year, will factor environmental planning—including conservation and efficiency efforts—into its scoring of cultivation center applications.

Colorado is tweaking some elements of its marijuana environmental and sustainability regulations after becoming the first state to allow recreational marijuana use in 2014.

And New Mexico, where decriminalization took effect July 1, just launched a committee to work through environmental and other aspects of the legalization of recreational pot in advance of the state's next legislative session. New Mexico's focus on climate change and water issues will likely figure into the proposal that emerges, said James Kenney, secretary of the state's Environment Department.

"We would want to make it the least footprint for producing as possible," Kenney said.

Among other industry aspects, the department would regulate the safety of commercially-produced food with THC—the psychoactive compound that gives marijuana users a high.

Waste, Water Use Weighed

Expanding or establishing a marijuana industry raises resource questions for states: What land will be used for production? Where will water to grow the crop come from? What to do with the waste?

Pollutants include pesticides, fertilizers, and solvents, while indoor marijuana production can be energy intensive. Legal cannabis cultivation uses enough electricity annually to serve 92,500 homes for a year—a figure that's expected to grow, according to cannabis industry analytics firm New Frontier Data.

Analysts have also attempted to measure the cumulative environmental impacts of illegal and state-licensed cannabis cultivation.

Total 2017 combined energy consumption in legal and illicit growing was estimated at 4.1 million megawatt hours, roughly equal to the electricity generated by the Hoover Dam, according to New Frontier Data's October 2018 report.

Data Tracking

The Colorado Department of Public Health and Environment is developing a tracking system for environmental data, including waste produced from the industry, and water and energy used.

In Denver, electricity use from cultivating cannabis and manufacturing infused products jumped an average of 36 percent per year from 2012 to 2016, according to a 2018 Denver Department of Public Health and Environment report.

The legislature approved a measure last year to relax a rule requiring cultivators to blend cannabis plant waste 50-50 with non-marijuana waste. The original aim was to prevent people from being able to recover and reuse marijuana, but it resulted in a “doubling of waste going to landfills,” said Kaitlin Urso, an environmental consultant for the state department.

The department is also studying the cannabis industry’s impact on air quality, with results expected in March 2020. The extraction process produces volatile organic compounds that form ground-level ozone when they react with sunlight, creating negative health effects.

EPA Silent on Pesticides

In California, cannabis represents a tiny percentage of land and water use, but has a possible impact on small streams, among other issues, said Van Butsic, a researcher at the University of California, Berkeley, and co-director of the university’s Cannabis Research Center. California’s push to legalize cannabis was in part driven by the need to bringing illegal growers into the regulated market to address water and chemical use.

Cannabis plants each need about 6 gallons of water a day, according to a 2018 report from the California Department of Fish and Wildlife Habitat Conservation Planning Branch. That means California growers may divert springs and streams for irrigation, disrupting wildlife, the report said.

Berkeley researchers at the center are now looking at cases where people aren’t entering the legal market.

“We’d like to know if there are barriers that can be removed,” Butsic said.

Marijuana’s prohibition under federal law also affects how states try to build a regulated industry. The U.S. Environmental Protection Agency hasn’t evaluated pesticide use related to the crop.

States like Nevada are left to come up with lists of pesticides that aren’t prohibited based on risks to human and environmental health. The Nevada Department of Agriculture hasn’t endorsed or recommended any of them, spokeswoman Rebecca Allured said in an email.

Georgia barred the use of pesticides unless certified organic by a handful of licensed growers, under a law enacted this year that allows production and sale of cannabis oil with low levels of THC. California is creating a program that will enforce organic cannabis standards starting in 2021.

Pesticides allowed in Washington are “pretty much natural pest deterrents,” Stephanie Davidsmeyer, communications consultant for the Washington State Liquor and Cannabis Board, said in an email. Rules under development will outline mandatory pesticide and heavy metals testing and should be final by late 2020, she said.

Plastic Packaging Criticized

Washington is also revising its marijuana product packaging and labeling requirements, she said. Critics of various state regulations say some of the mechanisms intended to protect the public result in overpackaging that is mostly single-use and plastic.

“They didn’t take environmental health into consideration,” said James Eichner, co-founder of California cannabis packaging company Sana Packaging that uses materials including hemp and reclaimed ocean plastic.

The company is targeting the most sustainable options for major cannabis packaging types and sees a “sustainability ethos within the industry,” Eichner said. It’s also time to reconsider some regulations, such whether a non-activated cannabis flower needs to be sold in thick, child-resistant containers, he said.

Compliance with regulations is the top concern, said Michael Markarian, CEO of Contempo Specialty Packaging, a Rhode Island company that produces cannabis packaging. He said labeling requirements can force one gram to be placed in an enormous container.

Contempo is looking to develop packaging that has fewer environmental impacts, and determine what customers are willing to pay for it, Markarian said.

Industry Efforts

The National Cannabis Industry Association is working on a white paper with guidelines for best management practices relating to environmental stewardship and sustainability, with the goal of releasing it later this year, spokesman Morgan Fox said.

“The industry continues to explore ways it can become even more sustainable and environmentally friendly,” he said.

The national Cannabis Sustainability Symposium, put on by the Cannabis Certification Council, will convene experts from across the country to focus on the industry’s environmental issues. The next symposium will be held Oct. 4 in Denver, with future events planned for Philadelphia, Boston, San Francisco, and Portland, Ore. The council seeks to serve as a standard-holding body for the industry.

Cannabis producers have shown a strong commitment to stewardship and sustainability, said Urso, the Colorado environmental consultant, who previously worked with craft brewers, oil and gas producers, and sand and gravel mining companies.

“I’ve been extremely impressed by the marijuana industry,” she said. “I’ve never seen a higher adoption rate around best management practices. They’ve shown such a willingness to do the right thing.”

—With assistance from Paul Shukovsky, Keshia Clukey, Alex Ebert, Stephen Joyce, Jennifer Kay, Laura Mahoney, Chris Marr, Andrew M. Ballard, and Emily C. Dooley.